

CORRUPTION IN AZERBAIJAN: PAST FIVE YEARS



2019

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This report was prepared by a group of experts, including lawyers and economists. The primary goal of the report was to assess the practical impact of corruption in Azerbaijan and the status of implementation of governmental anti-corruption measures, which are obligated by its participation in international platforms.

CONTENT

Abbreviations

Summary

1. Introduction
2. Political and economic background
3. Assessment of level of corruption in Azerbaijan
4. Istanbul Anti-Corruption Action Plan and Azerbaijan
5. GRECO's reports on Azerbaijan
6. Assessment of transparency and corruption
 - 6.1. Justice system
 - 6.2. Social spheres
 - 6.3. Procurements
 - 6.4. Business
7. Recommendations

ABBREVIATIONS

- ASAN** — Service Center under the State Agency for Public Service and Social Innovations
- PACE** — Parliamentary Assembly of the Council of Europe
- STPD** — State Traffic Police Department
- ERCAS** — European Research Centre for Anti-Corruption and State-Building
- GRECO** — The Group of States Against Corruption of the Council of Europe
- JLC** — Judicial-Legal Council
- OCCRP** — Organized Crime and Corruption Reporting Project
- OECD** — Organization for Economic Co-operation and Development
- GDP** — Gross Domestic Product

SUMMARY

International assessments have demonstrated that, in terms of scale, corruption in Azerbaijan stands out as a particularly negative example, not only in its region or among oil-gas countries with transition economies, but in the whole world.

According to the 2015 Corruption Perception Index of Transparency International, Azerbaijan was ranked 119th out of the 168 countries reviewed, while in 2018, the country fell to 152nd place out of 180 countries.

Four rounds of monitoring under the Istanbul Anti-Corruption Action Plan of the Organization for Economic Co-operation and Development (OECD) have been completed. In the report from the fourth round, disseminated in 2016, it was mentioned that there was a complete or partial discrepancy in the implementation by Azerbaijan of 15 out of 20 recommendations made in the previous round's report. Areas of particular concern included corruption in procurement, healthcare, judicial-legal systems, and the inability of civil society to effectively participate in anti-corruption policy.

Within the framework of the third and fourth rounds of assessment of the Group of States Against Corruption of the Council of Europe (GRECO), which Azerbaijan joined in 2004, final reports on Azerbaijan were made, which drew attention to systematic corruption in the country. These reports noted problems with the separation of powers; the influence of the president and executive structures over the legislative branch, the legal system, and the State Prosecutor's office. The absence of any effective opposition in Parliament was mentioned as a factor limiting effective control by that body in the struggle against corruption. Government control of media, self-censorship, and a weakening of civil society have also served to decrease meaningful public discourse on this issue.

During the past five years, and 2018 in particular, Azerbaijan received unwanted

global attention over a number of large-scale corruption scandals. One such scandal began in April 2018, when information about corruption and unethical behavior was revealed in a report on Azerbaijan by the Parliamentary Assembly of the Council of Europe (PACE). As a result of a 10-month long investigation, Pedro Agramunt, the former chairman of PACE, was accused (along with a number of other PACE officials) of corruption in relation to the organization's dealings with Azerbaijan. In the report, it was noted that the Azerbaijani government offered PACE officials caviar, luxury gifts, and jewelry, as well as prostitutes. In exchange, the PACE members adopted a less critical stance towards the authoritarian government of Azerbaijan.¹

In November 2018, Zamira Hajiyeve, the wife of Jahangir Hajiyeve, the now-incarcerated former chairman of the International Bank of Azerbaijan, was arrested in London. This arrest came about as a result of her failure to disclose the source of her wealth to the National Crime Agency, after spending over 16 million pounds in the famous Harrods Department Store of London over a period of ten years.²

In recent years, Azerbaijan achieved further notoriety as a result of Laundromat investigation of the Organized Crime and Corruption Reporting Project (OCCRP), concerning properties in Dubai³ with corrupt ties to the daughters of Ilham Aliyev, the President of Azerbaijan. This investigation focused on the fate of 2.9 billion USD taken out of the country from 2012-2014.⁴

The 6th section of the report assessed the transparency and anti-corruption measures in four sectors in Azerbaijan: the justice system, social spheres, state procurement, and business.

¹ Council of Europe. (15 april 2018). REPORT of the Independent Investigation Body on the allegations of corruption within the Parliamentary Assembly. <http://assembly.coe.int/Communication/IBAC/IBAC-GIAC-Report-EN.pdf>

² The Guardian. (06 noyabr 2018). Police arrest woman who spent £16m in Harrods. <https://www.theguardian.com/uk-news/2018/nov/06/police-arrest-zamira-hajiyeve-spent-16million-pounds-harrods>

³ The Guardian. (23 april 2018). The Azerbaijani president's children and the Dubai property empire. <https://www.theguardian.com/world/2018/apr/23/azerbaijan-children-of-president-linked-to-dubai-property-empire>

⁴ Organized Crime and Corruption Reporting Project. The Azerbaijani Laundromat. <https://www.occrp.org/en/azerbaijanilaundromat/>

The conclusions of this report determined that, while the establishment of the ASAN service and electronic services in government have helped to fight bribery on lower levels in the country, larger-scale corruption remains rampant.

Another noteworthy topic is the state's apparent inability to change old structures and establishment of new ones in their place. In recent years, the ASAN service was established to combat small-scale, low-level bribery in Azerbaijan, with service obligations of relevant structures in the country being allocated to the ASAN service.

The recommendations given at the end of the report cover specific issues, aimed at solving problems in the above-mentioned sectors. Also, the relevant recommendations of the international organizations are summarized there.

1. INTRODUCTION

International assessments have demonstrated that, in terms of scale, corruption in Azerbaijan stands out as a particularly negative example, not only in its region or among oil-gas countries with transition economies, but in the whole world. The main goals of this report include a systemic analysis of corruption in the country in the period of 2013-2018; summarizing the findings and recommendations from reports by international organizations; and finally, connecting all this with the institutional atmosphere in the country.

This report begins with an assessment of the level of corruption in Azerbaijan, along with analysis of its economic and political background. The status of corruption in the country is presented, along with recommendations made in reports by OECD's Istanbul Anti-Corruption Action Plan and GRECO, but have still not been implemented.

In addition, this report applies an assessment methodology close to that of the National Transparency System, which was developed in 2014 by Transparency Azerbaijan. The report covers 4 sectors in the country: (i) the justice system; (ii) the social sphere; (iii) state procurement; and (iv) business.

This report described the major factors affecting corruption, both in legislation and in practice, within each of these sectors over the past five years. We will also analyze improvements in the effectiveness of anti-corruption reforms, as well as the status of implementation of recommendations from the report by the 3rd Monitoring visit to Azerbaijan and the assessment of the National Transparency System in 2014. Recent reports by a number of international organizations, along with those from reliable media sources on cases of corruption, have also been used in the report. There are facts and cases of bribery, nepotism, gift-giving, misappropriation, abuse of power, kickbacks, and other types of corruption in this report. The report also covers the cases of both small- and large-scale

corruption, in addition to systemic and unorganized corruption in connection with the frequency of cases.

Various quantitative and qualitative analysis methods were used in the preparation of this report. The following sources were used in this report:

- Legislative documents of the Republic of Azerbaijan;
- Reports by Transparency International and Transparency Azerbaijan Public Union;
- Reports adopted on Azerbaijan within the framework of the 4th Monitoring Round of the Istanbul Action Plan of the Eastern Europe and Central Asia Network of OECD;
- “The State Development Report 2017” from the World Bank;
- The report on Azerbaijan by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in connection with its visit to Azerbaijan on 23-30 October, 2017.
- Prominent media outlets.

2. POLITICAL AND ECONOMIC BACKGROUND

Following its independence from the Soviet Union in 1991, Azerbaijan was ruled by President Heydar Aliyev from 1993-2003. After his death in 2003, the transfer of power to his son Ilham Aliyev was ensured. Later amendments to the Constitution in 2009 allowed Ilham Aliyev to be elected for 3rd and 4th terms in 2013 and 2018, respectively. As a result of amendments made after a referendum held on 26 September, 2016, the presidential term was extended to 7 years. The referendum also allowed Ilham Aliyev's spouse, Mehriban Aliyeva, to be appointed as the country's first vice president.

International organizations observing elections in Azerbaijan, including the OSCE Office for Democratic Institutions and Human Rights, have regularly criticized elections and referendums in Azerbaijan, stating that they have not been free or fair.⁵

The political and state life of the country is under total control of the ruling New Azerbaijan Party and a small group of elites. Opposition political parties, independent civil society organizations, independent media, independent unions and business associations are either completely absent or have been significantly weakened.

Even to this day, Azerbaijan has experienced the socio-economic and psychological after-effects of the 1991-1994 Karabakh War. Azerbaijan's Nagorno Karabakh region, along with seven neighboring districts, is occupied by Armenia, totalling approximately 20% of the country's internationally-recognized territory. There are close to 1 million refugees and IDPs in the country as a result of that conflict. Despite the 1994 ceasefire, occasional violations and flare-ups of violence have

⁵ <https://www.osce.org/odihr/elections/azerbaijan>

taken place; the four-day war at the beginning of April 2016 created a serious threat of instability in the region.

The country's economy and state budget relies heavily on profits from oil and gas exports. At least 45% of the GDP, at least 60% of the budget profits, and approximately 90% of total exports are connected to raw oil, oil products, and natural gas⁶. In 2018, Azerbaijan's economic growth was 1.4% and the nominal GDP was 47 billion USD, with GDP per capita at 4780 USD⁷. The average GDP growth rate between 2001 and 2018 was 9.1%.⁸

Uncontrolled transfers from the State Oil Fund to the state budget, the lack of effective budget spending on state investment programs, and the steadily increasing national debt are serious fiscal problems. A fall in global oil prices and decreased production levels in 2014-2016 led to a devaluation of the currency and a serious bank crisis. However, inflation dropped to 2.3% in 2018 and the AZN-USD exchange rate is remaining stable at the rate of 1 USD per 1.7 AZN⁹.

In comparison to previous years, there has not been a significant decrease in bank sector assets, credits, or deposits in 2018. Despite this, there has been a significant decrease in net profits of the commercial bank sector, with non-performing loans continuing to present a serious risk factor. Commercial banks have shut down 50 branches in attempt to optimize their expenditures in 2018 alone¹⁰.

Along with economic problems, there are serious problems related to governance of the country, as well as the general atmosphere for business. While the partly-free market in the country is generally open to trade and investment, weak protections of property rights, large businesses being owned by the ruling family and families of officials, and

⁶ Azərbaycan Respublikası Xarici Ticarətinin Gömrük Statistika. 2019 http://customs.gov.az/modules/pdf/pdffolder/71/FILE_44C1D3-FD03FF-A9A62A-0678E5-8898EF-88787F.pdf

⁷ Dövlət Statistika Komitəsi. 22.01.2019. 2018-ci ildə Ümumi Daxili Məhsul istehsalı. <https://www.stat.gov.az/news/index.php?id=4105>

⁸ Trading Economics. Azerbaijan GDP Annual Growth Rate. <https://tradingeconomics.com/azerbaijan/gdp-growth-annual>

⁹ European Commission. 11.3.2019. Report on EU - Azerbaijan relations in the framework of the revised European Neighbourhood Policy. Joint Staff Working Document. Brussels, SWD(2019) 107 final. (p.10) http://europa.eu/rapid/press-release_IP-19-1674_en.htm

¹⁰ Azərbaycan: 2018-ci ilin mühüm iqtisadi hadisələri. 31/12/2018. Turan İA. <http://www.turan.az/ext/news/2018/12/free/analytics/az/77746.htm>

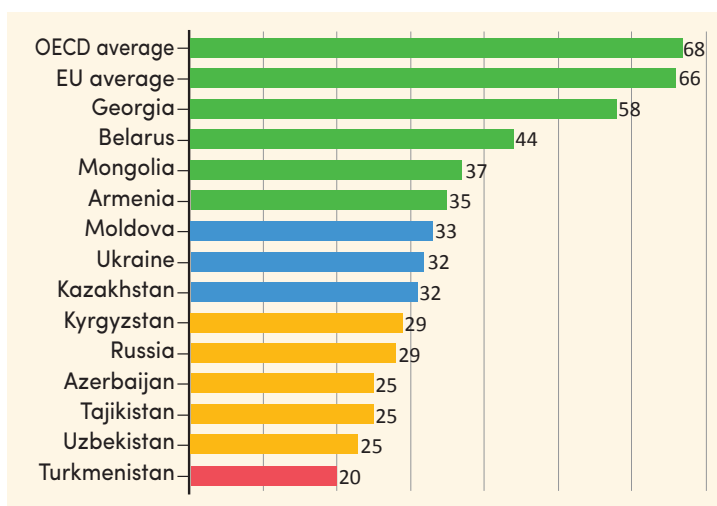
rampant, widespread corruption has led to monopolization and hampering development in non-oil sectors.

Of particular note is that the National Assembly did not adopt the Competition Code, nor did the Cabinet of Ministers adopt the form of declaration of profits and property in 2018. The previously inactive status of Azerbaijan in the Open Government Partnership (OGP) degraded into a total cessation of participation by the end of 2018. Azerbaijan's physical and legal entities, names of which are mentioned in connection with money laundering in a number of European countries, popularized the trend of "corruption exports" from oil-rich, post-Soviet countries.

3. ASSESSMENT OF CORRUPTION LEVELS IN AZERBAIJAN

According to the 2015 Corruption Perception Index of Transparency International, which is an international assessment of corruption, Azerbaijan was ranked 119th out of 168 countries reviewed, falling to 152nd among 180 countries in 2018¹¹. Azerbaijan falls below the European Union and OECD averages, along with a number of regional countries, in this index. To be more precise, Azerbaijan is ranked dead last among the Council of Europe countries, and third to last among former Soviet republics (Diagram 1).

Diagram 1. Regional comparison with Azerbaijan based on the Corruption Perception Index 2018



Source: <https://www.transparency.org>

¹¹ Beynəlxalq Şəffaflıq Təşkilatının Korrupsiyanı Qavrama İndeksi 2018. https://www.transparency.org/cpi2018?gclid=CjwKCAjw1dzkBRBWEiwAROVdLA1ZbCgcNQNPQeG8ILZjiewoQgG2LU0ddH_Ypr1NL-LApKo7Y4Kb_vRoCxCsQAvD_BwE

In order to ensure the effectiveness of anti-corruption policy, the independence of judicial power and freedom of the press is extremely important. The Index of Public Integrity of the European Research Centre for Anti-Corruption and State-Building (ERCAS) placed Azerbaijan 65th out of 109 countries in terms of judicial independence in 2017 (for a regional comparison we can mention Georgia, which was ranked 45th), while the country was at the very bottom of the list of 109 countries for freedom of the press¹².

¹² ERCAS İctimai Dürüstlük İndeksi 2017. <https://integrity-index.org/country-profile/?id=AZE&yr=2017>

4. OECD ISTANBUL ANTI-CORRUPTION ACTION PLAN AND AZERBAIJAN

The Istanbul Anti-Corruption Action Plan is an OECD program of oversight through research on Eastern Europe and Central Asia, having been formed in 2003 within the framework of the OECD anti-corruption network.¹³ This action plan supports anti-corruption reforms through continuous monitoring of the implementation of recommendations, relying on best practice, in line with international standards and with consideration of the country's condition.

4 rounds of monitoring for the action plan were completed from 2004-2017 and there are important points in their reports on Azerbaijan¹⁴. The report from the fourth round, disseminated in 2016, highlighted that there was a complete or partial discrepancy in the implementation by Azerbaijan of 15 out of 20 recommendations made in the previous round's report in 2013. Of particular concern was corruption in procurement, healthcare, and judicial-legal systems, as well as an inability of civil society to effectively participate in anti-corruption policy. Effective measures against corruption in vulnerable spheres demand a healthy institutional atmosphere, which guarantees a strong political will and continuous participation.

¹³ OECD Istanbul Anti-Corruption Action Plan. 2019. <http://www.oecd.org/corruption/acn/istanbul-actionplan/>

¹⁴ OECD Istanbul Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine. Azerbaijan Monitoring Report October 2005. <http://www.oecd.org/countries/azerbaijan/37284436.pdf>

OECD Anti-Corruption Network for Eastern Europe and Central Asia. Istanbul Anti-Corruption Action Plan. Second Round of Monitoring. Azerbaijan Monitoring Report. 2010 <http://www.oecd.org/countries/azerbaijan/44996103.pdf>

OECD Anti-Corruption Network for Eastern Europe and Central Asia. Istanbul Anti-Corruption Action Plan. Third Round of Monitoring. Azerbaijan Monitoring Report. 2013 <http://www.oecd.org/corruption/acn/AZERBAIJANThirdRoundMonitoringReportENG.pdf>

Problems mentioned in the 4th round monitoring report on Azerbaijan by the Istanbul Anti-Corruption Action Plan are enumerated below:

- 1) Azerbaijan lacks a unified anti-corruption policy with clear goals, timetable, indicators of results, with a budget relevant to its implementation, and based on solid evidence. The government does not regularly conduct research on the situation of corruption.
- 2) Existing risks and problems with corruption are not analyzed systematically and a complete assessment of the impact of anti-corruption measures has not been conducted.
- 3) A mechanism for monitoring and assessing the progress of state structures towards the strengthening and increased inclusion of civil society has not been established.
- 4) A number of lawful functions of the Anti-Corruption Commission have not been implemented; work done thus far has had only a small impact on the conduct of anti-corruption policy, as well as its monitoring and prevention of corruption. The Secretariat of the Commission has only limited functions, resources, and opportunities.
- 5) The State Examination Center, which conducts admission examinations for the civil service, lacks many of the functions and powers of the former Civil Service Admission Commission, such as the formulation of civil service policy, the implementation of ethical rules, the assessment of performance of officials, and the processing of admission to civil service.
- 6) Although some work has been done towards the adoption of legislation preventing conflicts of interest for public officials, its implementation has been quite problematic.
- 7) There is persistent public perception that the political independence of the courts and prosecution structures is absent, and that significant corruption risks remain in these spheres.
- 8) Problems with the freedom of media and access to information decrease the effectiveness of anti-corruption policy.

Some important recommendations reflected in the 4th round monitoring report of the

Istanbul Anti-corruption Action Plan on Azerbaijan are as follows¹⁵:

- 9) The assessment of internal corruption risks, through the application of a sectoral approach to state bodies, shall be encouraged.
- 10) Procedures and common principles for the transparent appointment of high ranking political posts in the civil service shall be prepared.
- 11) Preparation of a relevant template without further delay, to ensure truthful financial declarations by state officials of profits and possessions.
- 12) Legislative acts, ensuring the separation of political and professional civil services or bureaucracies shall be adopted without further delay.
- 13) Participation of representatives of civil society and academia in the Judicial-Legal Council (JLC), the adoption of criteria for the transparent appointment of judges to the Supreme and the Appeal Courts that is free of any political interference, shall be ensured.
- 14) Assets, profits, material obligations, and profits from the assets of judges shall be declared yearly to the JLC, and these declarations shall be open to the public.
- 15) A 2-year ban on legal counseling or lawyer activity shall be imposed on former prosecutors in connection with cases being investigated by prosecution bodies where they used to work. Profit and property declaration being made by prosecutors shall be ensured, as well.
- 16) Necessary measures shall be applied to simplify opportunities for fast and secret access to banking and financial information for prosecutors investigating cases of corruption.
- 17) The scale of legal inviolability of MPs and judges shall be decreased and it shall not be allowed to use this as a safeguard against investigation.
- 18) “Decriminalization” measures on legal punishments for defamation shall be ensured and opportunities shall be created for journalists to investigate a number of corruption cases.

¹⁵ OECD Anti-Corruption Network for Eastern Europe and Central Asia. 2016. Anti-Corruption Reforms in Azerbaijan. Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan. (s.101-108) http://www.oecd.org/corruption/acn/Azerbaijan_Report.pdf

- 19) Complete transparency of state procurements conducted over electronic platforms and the participation of civil society in monitoring procurements shall be ensured.
- 20) Statistical data on the effectiveness of the regime in confiscating property, including type, amount, and ownership of confiscated property shall be gathered. The process shall be monitored by analyzing the risk of corruption.
- 21) The necessary level of state funds allocated to schools, in order to ensure quality education, shall be revealed or disclosed through the analysis of state expenditures on education¹⁶.

There was no significant improvement in 15 out of 31 recommendations mentioned in the 4th round monitoring report of the Istanbul Anti-Corruption Action Plan on Azerbaijan by the time of the monitoring meeting of OECD on 15 July, 2018¹⁷. These recommendations mainly cover the adoption of a new document on anti-corruption policy, reforms to the admissions process for the civil service, and the ensuring of judicial power. Monitoring reports on the Istanbul Anti-Corruption Action Plan on Azerbaijan also noted significant problems and measures still needed, both in legislation and practice, in the sphere of state financial control and auditing.

¹⁶ Monitoring hesabatında səhiyyə sisteminin korrupsiya risklərindən bəhs edilsə də, tövsiyələr arasında səhiyyə sahəsində korrupsiyanın azaldılması tövsiyələri yer almayıb.

¹⁷ Istanbul Anti-Corruption Action Plan. Fourth Round of Monitoring. Azerbaijan Progress Update. 2018 (s.6)
<https://www.oecd.org/corruption/acn/OECD-ACN-Azerbaijan-Progress-Update-2018-ENG.pdf>

5. GRECO's reports on Azerbaijan

Within the framework of the third- and fourth-round assessment of the Group of States Against Corruption of the Council of Europe (GRECO), which Azerbaijan joined in 2004, final reports highlighting systemic corruption in Azerbaijan were adopted. These reports notes problems in the division of power among the branches; the influence of the president and executive structures over the legislature, the justice system, and the Prosecutor's Office. Absence of effective opposition in Parliament is noted as a factor limiting the body's oversight in fight against corruption. Government control of the media, self-censorship, and the weakening of civil society has decreased public discourse¹⁸. MPs, judges, and prosecutors, whose anti-corruption work was evaluated, that did not reveal asset and profit declarations were severely criticized in the GRECO reports. GRECO called for Azerbaijan to institute this important reform and ensure the transparency of the legislative process, in order to prevent any conflict of interest.

1	Additional activities of MPs shall be subject to effective control	Not implemented
2	A template for income declaration of MPs shall be determined and their provision of financial information shall be ensured	Not implemented
3	A template for income declaration of judges shall be determined and their provision of financial information shall be ensured	Not implemented
4	The Law on Prosecutor's Office shall be amended in order to prevent any interference in the work of prosecution structures during investigation of criminal cases; organization, shutting down of prosecution structures, and the main organizational structure shall be determined by this law	Not implemented
5	All vacancies to high-ranking positions in the prosecution structures shall be announced in a call open to the public, and admission shall be determined in line with clear, fair, and transparent criteria	Not implemented

¹⁸ GRECO Azərbaycanca sistematik korrupsiyadan danışır. 13/04/2015 <https://www.azadliq.org/a/26952674.html?fbclid=IwAR31wizsCIQjiOn5hXjC4IV-jFqztBC2Wql0oS-vRH-3peU1t9X21FN-6wMU>

6	The procedure of declaration of assets by prosecutors shall be determined, and a structure overseeing the implementation of these procedures, in line with procedures determined for declaration of assets, shall be established in the Prosecutor-General's Office	Not implemented
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The report notes that direct presidential control of prosecution structures has not been eliminated, appointments to high positions were not based on more transparent and fair criteria, and these problems still await a solution¹⁹.

¹⁹ GRECO. 2016. Fourth Evaluation Round. Azerbaijan Compliance Report. (p.20)
<https://www.coe.int/en/web/greco/evaluations/azerbaijan>

6. ASSESSMENT OF TRANSPARENCY AND CORRUPTION

In this section of the report, a similar assessment methodology was used to that of the National Transparency System prepared by Transparency Azerbaijan in 2014. The report covers 4 sectors: (I) justice system; (ii) social sphere; (iii) procurement and (iv) business.

6.1 Justice system

In recent years, a number of corruption cases have been exposed by law enforcement in Azerbaijan. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe and European Union visited law enforcement structures in Azerbaijan from 2013-2017. In its report on this visit, it was noted that violence and corruption is systemic in law enforcement structures, and on many occasions, complaints were not considered and perpetrators of law remained unpunished.²⁰

The Committee stated in its report that the police operatives used violence against suspects to force them into confessions, to provide information, or to extort bribes. According to complaints from the public heard by the Committee regarding violence, people reported being punched, kicked, and beaten with baseball bats, wooden sticks, plastic bottles filled with water, and thick books. There has also been reported use of electroshock and other more severe forms of torture against the people.

Unlike the previous years, there have been accusations of torture against the State Customs Committee, State Border Service, and the armed forces. Despite all this, the

²⁰ Council of Europe News. (18 iyul 2018). Azerbaijan: torture, impunity and corruption in law enforcement remain systemic and widespread - new anti-torture committee publications. <https://www.coe.int/en/web/baku/-/azerbaijan-torture-impunity-and-corruption-in-law-enforcement-remain-systemic-and-widespread-new-anti-torture-committee-publications>

Committee considers that these reports being made public by Azerbaijan is a positive thing. If previously these reports remained confidential, the state publishing them now is considered by the Committee to be an attempt at change.²¹

Police. There have been a number of reports in the media regarding small-scale bribery and the punishment of criminals. For example, in 2014, a citizen shared footage of the Chief of the Goychay District Traffic Police Department demanding a bribe from him.²² According to information received on the following day, he was dismissed from his position. In December of the same year, an employee of the State Traffic Police Department of the Nasimi District Police Department was dismissed for soliciting a bribe.²³ Another traffic police officer was seen taking bribes in a video shared on Meydan TV in October 2018.²⁴

Also, in recent years, a number of people have died in police stations. For example, in March 2018, news outlets reported on the death of citizen Tofig Shukurov, who was said to have been tortured during interrogation in the Tovuz District Police Department. According to official reports from the police station, the citizen committed suicide by jumping from the window of the police station²⁵.

In September 2018, citizen Elmir Akhundov was summoned to the Gazakh Police Station for interrogation, and later died in the station. The criminal case in connection with this fact was launched under Articles 124.1 (homicide by negligence) and 221.3 (hooliganism by using a weapon or by using an item as a weapon).²⁶

²¹ Council of Europe. (2018). Report to the Azerbaijani Government on the visit to Azerbaijan carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 to 30 October 2017. Page 4. <https://rm.coe.int/16808c5e46>

²² Fakt xəbər. (07 aprel 2014) Azərbaycanada Polis Rüşvət alarkən görüntüləndi. http://www.faktxeber.com/News_h445475.html

²³ Müstəqil İnformasiya Agentliyi. (03 dekabr 2014). Bakıda polis rəisinin "adamı" olan zabıt həbs olundu - Rüşvət. http://www.mia.az/w112948/Bak%C4%B1da_polis_r%C9%99isinin_yax%C4%B1n%C4%B1_olan_yol_polisi_h%C9%99bs_olundu_-_R%C3%BC%C5%9Fv%C9%99t/

²⁴ MeydanTV. (01 oktyabr 2018). Rüşvət alan polislər VS İlham Əliyev polis haqqında. <https://www.youtube.com/watch?v=ODveC9RM8QE>

²⁵ Mikroskop. (09 mart 2018). Polis özünü şöbədən atan şəxsə işgəncə verilməsini təkzib edib. <https://mikroskopmedia.com/2018/03/09/polis-ozunu-sob%C9%99d%C9%99n-atan-s%C9%99xs%C9%99-isg%C9%99nc%C9%99-verilm%C9%99sini-t%C9%99kzib-edib/>

²⁶ Mikroskop. (28 sentyabr 2018). Qazaxda polis bölməsində ölən sakinə görə bir polis saxlanılıb. <https://mikroskopmedia.com/2018/09/28/qazaxda-polis-bolm%C9%99sind%C9%99-ol%C9%99n-sakin%C9%99-gor%C9%99-bir-polis-saxlanilib/>

But the aforementioned punishments happen only in cases of small-scale corruption. Large bribes being solicited and other such violations of law are not only left uninvestigated, but also journalists investigating this often become targets of law enforcement.²⁷ It is also noteworthy that journalists and other socially active youth are often summoned by law enforcement agencies for this very reason.

In May 2018, REAL Party and a number of activists organized a rally in the city center to celebrate the 100th anniversary of the Azerbaijani Democratic Republic. Right after the rally, Azer Gasimli, who was one of the main organizers of the event and the chairman of REAL Party assembly, was sentenced to 30 days administrative arrest; in addition, REAL Party assembly members Elmin Hamzayev, Nariman Ismayil, Arastun Alizade, and Anar Mammadov were sentenced to 10, 25, and 30 days of administrative arrest.²⁸ Azer Gasimli was sentenced to 30 days of administrative arrest for disobeying a lawful police order, but the fact that the arrest had actually been ordered by the government for political reasons was revealed in a statement from the Ministry of Internal Affairs. Orkhan Mansurzade, deputy chief of the press service of the Ministry of Internal Affairs, stated that relevant protocols in line with the corresponding articles of the Code of Administrative Offenses were compiled against the arrested members of the REAL party for holding an illegal rally, and so the courts sentenced them to administrative arrest.²⁹

In November 2018, in connection with the National Awakening Day, chairman Ali Karimli of the APFP was detained along with 50 other activists during the APFP visit to the Alley of Martyrs, all of whom were subsequently taken to the Sabail District Police Department. Ali Karimli and other 11 persons were charged under Articles 513.1 and 513.2 of the Code of Administrative Offenses.³⁰

²⁷ Organisation for Economic Co-operation and Development (OECD). Anti-Corruption Reforms in AZERBAIJAN. Fourth Round of Monitoring of the Istanbul Anti Corruption Action Plan 2016. Page 57-58. <http://www.oecd.org/corruption/anti-bribery/OECD-ACN-Azerbaijan-Round-4-Monitoring-Report-ENG.pdf>

²⁸ Mikroskop. (08 iyun 2018). Daha bir REAL üzvünə 10 sutka həbs cəzası verildi. <https://mikroskop-media.com/2018/06/08/daha-bir-real-uzvun%C9%99-10-sutka-h%C9%99bs-c%C9%99zasi-verildi/>

²⁹ Mikroskop. (06 iyun 2018). DİN vətəndaş cəmiyyəti fəallarının müraciətinə cavab Verdi: “Tamamilə məntiqsiz və məsuliyyətsiz yanaşmadır”. <https://mikroskopmedia.com/2018/06/06/din-v%C9%99t%C9%99n-das-c%C9%99miyy%C9%99ti-f%C9%99allarinin-muraci%C9%99tin%C9%99-cavab-verdi-tamamil%C9%99-m%C9%99ntiqsiz-v%C9%99-m%C9%99sulyy%C9%99tsiz-yanasmadir/>

³⁰ Meydan TV. (19 noyabr 2018). Ali Karimli and other activists fined and released, three sentenced to prison. <https://www.meydan.tv/en/site/news/31502/>

Prosecutor's Office. Prosecutorial work in the Republic of Azerbaijan is regulated by the Constitution, along with the law on Prosecution and the Criminal Procedural Code. Based on these laws, there are hierarchic relations within the Prosecution service. The Prosecutor's Office operates based on the subordination of junior prosecutors to senior prosecutors: execution of orders on organizational measures and activities related to duties of senior prosecutors is mandatory for junior prosecutors. The decisions and actions of junior prosecutors can be abolished, revoked, changed, or substituted by other decisions and acts by senior prosecutors. Junior prosecutors or other prosecutors are obliged to execute all lawful demands and orders of senior prosecutors.³¹

This in turn leads to obstacles to independent operation of prosecutors. It is also mentioned in the OECD report that, according to information received by observers of monitoring visits, senior prosecutors routinely give orders to junior prosecutors orally.³² This leads to a violation of transparency. Also, according to the law on Prosecution, prosecution structures participate in the launching of criminal cases, investigation, along with being a state prosecutor in the court.³³ If we take into account that both the investigation and state prosecution is carried out by the same body and the same person, conflicts of interest become unavoidable.

Currently, the State Examination Center conducts admission examinations for the civil service, including the justice system. However, according to the OECD report, this examination only covers junior positions; appointments to senior positions is decided from within the organization.³⁴ Public vacancy calls announcing high- and mid-level position are not made; the Prosecutor-General appoints officials to these positions,³⁵ and

³¹ Prokurorluq haqqında Azərbaycan Respublikasının qanunu. (7 dekabr 1999). Maddə 16, 21, 27, 28. <http://www.e-qanun.az/framework/5229>

³² Organisation for Economic Co-operation and Development (OECD). Anti-Corruption Reforms in AZERBAIJAN. Fourth Round of Monitoring of the Istanbul Anti Corruption Action Plan 2016. Page 50. <http://www.oecd.org/corruption/anti-bribery/OECD-ACN-Azerbaijan-Round-4-Monitoring-Report-ENG.pdf>

³³ Prokurorluq haqqında Azərbaycan Respublikasının qanunu. (7 dekabr 1999). Maddə 4. <http://www.e-qanun.az/framework/5229>

³⁴ Organisation for Economic Co-operation and Development (OECD). Anti-Corruption Reforms in AZERBAIJAN. Fourth Round of Monitoring of the Istanbul Anti Corruption Action Plan 2016. Page 50. <http://www.oecd.org/corruption/anti-bribery/OECD-ACN-Azerbaijan-Round-4-Monitoring-Report-ENG.pdf>

³⁵ Helsinki Foundation for Human Rights. (September 2016). The Functioning of the Judicial System in Azerbaijan and its Impact on the Right to a Fair Trial of Human Rights Defenders. Page 13. http://www.hfhr.pl/wp-content/uploads/2016/09/Azerbaijan_judiciary.pdf

territorial and specialized prosecutors are appointed by the Prosecutor-General, in line with the Constitution.³⁶

Along with this control over the application internal statutes, procedures, rules of ethics, and assessments of the fulfillment of necessary duties is not the prerogative of the State Examination Center.³⁷ According to the Law on Prosecution, the Prosecutor-General shall inform the National Assembly of the Republic of Azerbaijan and the President of the Republic of Azerbaijan of the work of the prosecutor's office.³⁸ However, these reports and discussions are not transparent or disclosed to the public. In December 2015, the investigator of the Zardab District Prosecutor's Office resigned from his position, informing the media that he did this to protest against legal violations in the country. Right after the interview, information was released about his arrest and dismissal by the Prosecutor-General's Office. A criminal case under Article 311 (taking bribes) was launched against him. According to the aforementioned investigator, Rufat Safarov, orders were sent to him by the Prosecution structures, saying he should make an apology for his words and become a member of the ruling New Azerbaijan Party³⁹. It is noteworthy that, according to the law on Prosecution of the Republic of Azerbaijan, an investigator in the prosecution structures cannot become a member of any political party.⁴⁰

Judiciary. According to every international report, corruption is widespread in Azerbaijan courts. According to the Human Rights report by the US State Department, the majority of citizens do not trust the courts in Azerbaijan.⁴¹

³⁶ Azərbaycan Respublikasının Konstitusiyası. Maddə 133. http://www.azerbaijan.az/portal/General/Constitution/doc/constitution_a.pdf

³⁷ Organisation for Economic Co-operation and Development (OECD). Anti-Corruption Reforms in AZERBAIJAN. Fourth Round of Monitoring of the Istanbul Anti Corruption Action Plan 2016. Page 6. <http://www.oecd.org/corruption/anti-bribery/OECD-ACN-Azerbaijan-Round-4-Monitoring-Report-ENG.pdf>

³⁸ Prokurorluq haqqında Azərbaycan Respublikasının qanunu. (7 dekabr 1999). Maddə 43, 44. <http://www.e-qanun.az/framework/5229>

³⁹ Institute for Reporters' Freedom and Safety (IRFS). (4 may 2016). House Arrest of Former Investigator Rufat Safarov Extended for Three Months. <https://www.irfs.org/news-feed/house-arrest-of-former-investigator-rufat-safarov-extended-for-three-months/>

⁴⁰ Prokurorluq haqqında Azərbaycan Respublikasının qanunu. (7 dekabr 1999). Maddə 30. <http://www.e-qanun.az/framework/5229>

⁴¹ United States Department of State. Bureau of Democracy, Human Rights and Labor. (2017). Azerbaijan Country Report on Human Rights Practices. <https://www.state.gov/documents/organization/277385.pdf>

According to information provided by the Judicial Legal Council on its official website in October 2018, seven judges had been punished for enabling corruption.⁴² But while the prosecution of corrupt judges is a positive thing at first sight, gaps in the law overshadow these punishments, since corruption in the justice system is a direct cause for corruption in other spheres.⁴³

The Judicial Legal Council oversees the judiciary in Azerbaijan; the chairman of the Judicial Legal Council is Fikrat Mammadov, who is also the Minister of Justice. To summarize, the executive power controls the judiciary, and this in turn creates an obstacle to independent operation of the courts.

Complaints lodged in connection with cases of corruption are touched upon in the annual activity report made by the Human Rights Ombudsman of the Republic of Azerbaijan. It is mentioned in the 2012 annual report that, in the years 2010-2012, disciplinary proceedings were launched against 52 judges, in connection with corruption, procrastination, and other violations of the law, with five of those being stripped of their authority before his/her term ended. In the 2015 report, the number of such cases jumped to 200, with 70 of those accused being dismissed for gross violations of law in the judicial system⁴⁴.

In the 2018 report of the Ombudsman, it is stated that “complaints over corruption were sent to the Prosecutor-General’s Office. According to official statistics, disciplinary proceedings were launched against 31 employees of the prosecutor’s office as a result of service examinations conducted by the Prosecutor-General’s Office⁴⁵.”

In general, throughout the last 15 years, the number of complaints made to the Ombudsman has increased by a factor of five, from 3700 and 20400, with the number of complaints about corruption being steady every year.

⁴² BBC. (9 oktyabr 2019) Məhkəmə-Hüquq Şurası: “7 hakim cəzalandırılıb”. <https://www.bbc.com/azeri/azerbaijan-45799879>

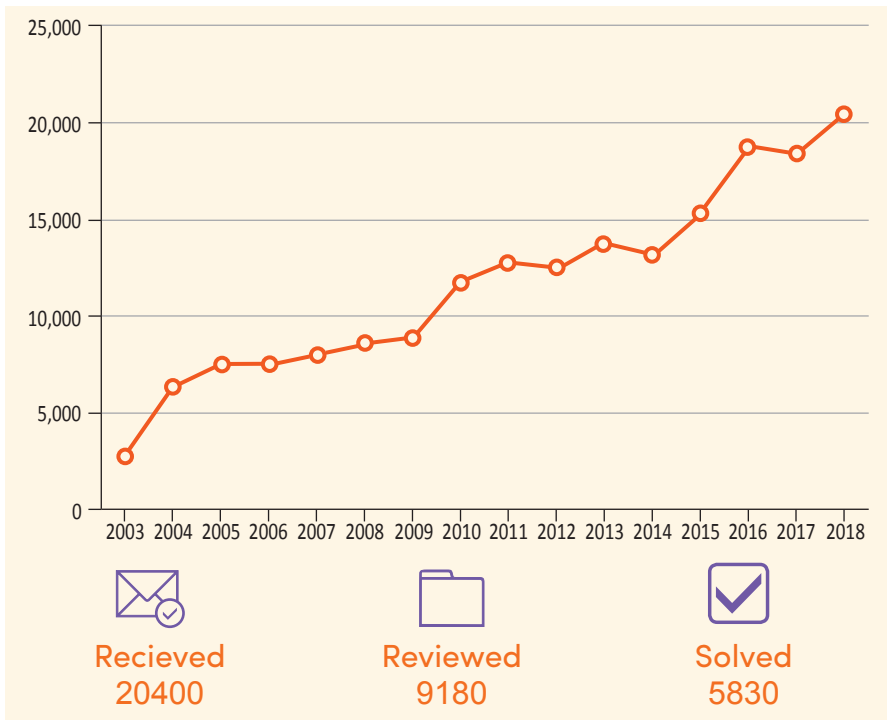
⁴³ Azərbaycan Respublikasının Konstitusiyası. Maddə 7. http://www.azerbaijan.az/portal/General/Constitution/doc/constitution_a.pdf

⁴⁴ Azərbaycan Respublikası İnsan Hüquqları üzrə Müvəkkilinin (Ombudsmanın) illik məruzələri. <http://www.ombudsman.gov.az/az/view/pages/59>

⁴⁵ Azərbaycanda insan hüquqlarının və azadlıqlarının təmin edilməsi və müdafiəsinin vəziyyəti haqqında.

Azərbaycan Respublikasının İnsan Hüquqları üzrə Müvəkkilinin (Ombudsmanın) 2018-ci il üzrə illik məruzəsi. Bakı. 2019. (s.20) <http://www.ombudsman.gov.az/az/view/pages/59>

Diagram 2: The number of complaints lodged to the Ombudsman



Source: <http://www.ombudsman.gov.az>

The Bar Association of Azerbaijan. Problems in the justice system exist in the Bar Association of Azerbaijan, as well. The abolition of the representation institute in 2017 has only increased these problems. For more than a year, physical bodies in all criminal cases can only be represented by lawyers, who are members of the Bar Association.

Currently, there are more than 1000 members of the Bar Association, which is a miniscule amount of lawyers in relation to the population; as a result, the workload of existing lawyers has obviously increased greatly. Another problem has arisen over the ability of low-income citizens to access of legal services. According to Anar Baghirov, the chairman of the Bar Association, while pro bono lawyers are not envisaged for civil cases, lawyers are requested to voluntarily defend the rights of these citizens ⁴⁶. However, this fact in itself can lead to corruption cases related to the Bar Association.

⁴⁶ Azadlıq Radiosu. (26 oktyabr 2018) Anar Bağirov: “50 min nəfərə 2-3 vəkil düşür”. <https://174471.info/b/https://www.azadliq.org/a/anar-ba%C4%9F%C4%B1rov-50-min-n%C9%99f%C9%99r%C9%99-2-3-v%C9%99kil-d%C3%BC%C5%9F%C3%BCr-/29565420.html>

By law, the Bar Association is a non-governmental, independent, and self-governing body.⁴⁷ Despite this, decisions related to restrictions placed on lawyers and decisions about disbarment are based on requests from the Ministry of Internal Affairs, the Prosecutor-General's Office, and the Ministry of Justice. In recent years, more than ten lawyers faced restrictions and/or disbarment. According to lawyers, who have been victimized by this process, this happened because they represented persons held as political prisoners.⁴⁸

In general, law enforcement structures continue to carry out political orders and anyone considered a threat to the government is indicted and sentenced under any number of false charges.

6.2 Social sphere

In recent years, reports from various international and local organizations continue to hold a dim view of the education and healthcare systems in Azerbaijan. The most criticized aspects are the quality of teachers, textbooks, and the level of education in general, as well as widespread bribery at schools. The World Development Indicators 2017 report from the World Bank mentions Azerbaijan as a country with widespread bribery in both the education and healthcare spheres. 9 out of 10 citizens interviewed for the report, admitted to having paid a bribe.⁴⁹

Education. Secondary education in Azerbaijan is generally considered insufficient to pass university entrance exams, and since the early 90's, pupils have had to hire private tutors to supplement their educational needs in the final years of school⁵⁰. Education expert Nadir Israfilov linked these problems to low salaries, ineffective management, and poor preparation of teachers.⁵¹

⁴⁷ Vəkillər və vəkillik haqqında Azərbaycan Respublikasının Qanunu. (1999) http://www.e-qanun.az/alpidata/framework/data/0/f_257.htm

⁴⁸ Azadlıq Radiosu. (30 oktyabr 2018) İki vəkili fəaliyyəti dayandırılıb. <https://174471.info/b/https://www.azadliq.org/a/29573131.html>

⁴⁹ A World Bank Group Flagship Report. (2017). World Development Report. Governance and the Law. Page 177. https://www.worldbank.org/en/publication/wdr2017?cid=ECA_FB_ECA_EN_EXT

⁵⁰ ЭХО. (05 may 2018). Образование в Азербайджане: Больше учиться и меньше знать. <http://ru.echo.az/?p=69833>

⁵¹ AzPolitika. (05 oktyabr 2017). Müəllim ictimai qınaq obyektinə ola bilməz! <http://azpolitika.info/?p=359870>

Since the start of 2015, diagnostic assessment examinations for teachers have been used in Azerbaijan. Unfortunately, this assessment has led to new causes and cases of bribery. In some schools, directors take bribes from teachers that have failed the examination, instead registering them as janitors or other technical workers in the school and then allowing them to teach on behalf of other people.

In May 2018, Fuad Mehraliyev, an English language teacher in Astara Middle School, complained to the Ministry of Education about the corruption and bribery going on at his place of work. He stated that, while the school was being refurbished by the state, 5 AZN per month was collected to cover the costs of the work.⁵² He was summoned by the police in October of that year because of his complaints. Fuad Mehraliyev refused to go to the police department; later, he was taken by force to the police and eventually admitted to a mental health facility. For about a month, he was held at this facility, and then summarily dismissed from his position at the school.⁵³

In May 2018, complaints were lodged against the former Minister of Education, Mikayil Jabbarov. Fazil Gulverdiyev noted in his complaint that, despite being appointed to a position of a school director, he was forced to resign after refusing to pay bribes to the Lankaran Education Department. According to his statement, Mr. Gulverdiyev was appointed the director of the Tukavila Village Middle School in Lankaran District by the former Minister of Education Mikayil Jabbarov after having received high marks in the school directors' admission examination in 2016.

But later, Shahana Ahmadova, the former chair of the Lankaran City Education Department, demanded a payment of 7,000 AZN, to be given to relevant executive structures. If he refused, the minister would revoke his appointment. Despite paying this amount, he was pressured in the school again and was forced to resign just a few months later. According to Fazil Gulverdiyev, he had appealed to the Prosecutor-General's Office, but the case was dismissed, since he was not able to prove that he had paid a bribe. He also noted that they were sending 199 AZN per month to the Education Department as a bribe, taken from the salaries of teachers.⁵⁴

⁵² BBC. (15 may 2018). Astarada ingilis dili müəllimi "təhsildə rüşvətə" etiraz edir. <https://www.bbc.com/azeri/azerbaijan-44123688>

⁵³ Meydan TV. (26 oktyabr 2018). Müəllim: Rüşvətə qarşı çıxdım, direktor məni dəliخانaya saldırdı. <https://www.meydan.tv/az/site/opinion/31132/>

⁵⁴ Unikal. (30 may 2018). Mikayıl Cabbarovun təyin etdiyi direktor vəzifəsindən istefa verdi – Rüşvət tələbinə görə. (FOTO-FAKT) <http://www.unikal.org/w183200.html>

A student at the Baku Computer College complained to the Chief Anti-Corruption Department about the department head of that college, Aladdin Safarov, soliciting bribes. In the complaint, it was mentioned that Aladdin Safarov demanded 150 AZN from the student in exchange for satisfactory marks on examinations in the winter examination session. On 27 January, 2015, a criminal case was launched against Safarov for being exposed while committing a crime of taking 120 AZN bribe in his working room and he was arrested by order of the court.⁵⁵

In 2016, an anti-bribery operation was launched in the Azerbaijan State Economic University; as a result, it was revealed that 9 lecturers had taken the total of 620,000 AZN in bribes from students.⁵⁶

Another notorious bribery case took place at Baku State University. In 2017, Zaka Miraghayev, a 4th-year theology major, filed a complaint about illegal actions by deputy dean Nigar Ismayilzade. Mr. Miraghayev testified in court that, in order to allow a student to sit an exam, who had already lost his right to participate in the examination for not attending classes, the deputy dean completely changed the registration journal. According to testimony, this student paid a 500 AZN bribe to Nigar Ismayilzade.⁵⁷

In November 2018, the rector of Baku State University Abel Maharramov was dismissed from his position by the decree of the President. Abel Maharramov had been a rector of Baku State University since 1999. There was a scandal regarding his dismissal; according to reports in the newspaper Yeni Musavat, Mr. Maharramov had quarreled about a wine business with businessman Ali Avsan, who was a relative of the chairman of the Caucasus Muslim Office, Sheikh-ul-Islam Allahshukur Pashazade, during a trip to Spain. Right after this incident, Mr. Maharramov was summarily dismissed from his position of rector of BSU.⁵⁸

In recent years, the state has not taken any positive steps to combat bribery in higher

⁵⁵ ATV. (28 yanvar 2015). Bakıda müəllim rüşvət üstündə həbs edildi. <http://atv.az/news/social/13382-bakida-muellim-rusvet-ustunde-hebs-edildi>

⁵⁶ BBC. (25 iyul 2016). Mətbuat icmalı: “İqtisad Universitetində rüşvət əməliyyatı”. https://www.bbc.com/azeri/azerbaijan/2016/07/160725_azeri_press

⁵⁷ Azadlıq Radiosu. (21 iyun 2017). BDU-da rüşvət qalmaqalı: məhkəmədə səfirin bacısına suçlama <https://174471.info/b/https://www.azadliq.org/a/bdu-rusvet/28570350.html>

⁵⁸ Məsəvat. (15 noyabr 2018). Abel Məhərrəmov özünü necə yandırdı - prezident rektoru bu səbəbdən qovdu? http://musavat.com/news/abel-meherremov-ozunu-nece-yandirdi-prezident-rektoru-bu-sebden-qovdu-sensasiya_570717.html

education institutions. However,, a number of private universities with higher standards and freedom from corruption have been established, with a number of exemplary schools and universities being shut down. For example, lyceums related to Fathullah Gulan, who had previously been operating as exemplary schools of the country, as well as Caucasus University, were either shut down or changed names and management under pressure from the Turkish Government.

In 2015 and 2016, respectively, 3.1% and 3.2% of the GDP was spent on education and research in Azerbaijan. The research sphere remains the least developed sphere of the economy in Azerbaijan. In late 2016, the Minister of Economy noted that, due to the economic crisis, even less money would be allocated to research and education from the state budget.⁵⁹ In recent years, while the absolute amount of state money spent on education has increased, its amount relative to GDP has decreased.

In 2018, total education expenses increased by 210.3 million AZN, in comparison with 2017⁶⁰, and in 2019 the education expenses have increased by 230.6 million AZN, in comparison with 2018⁶¹. However, relative to the total state budget, education expenditure has decreased from 10.4%⁶² to 9.2%^{63 64}. Another noteworthy event in the education sphere involved the Sabah Groups, which were established in 2014. Since the state of Azerbaijan was unable to increase the quality of universities operating in Azerbaijan, groups aiming provide a higher standard of education within these universities were established, while universities providing bad education continued to

⁵⁹ BTI Project. (2018). Azerbaijan Country Report. Page 33. https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2018/pdf/BTI_2018_Azerbaijan.pdf

⁶⁰ Azərbaycan Respublikasının 2018-cu ilin dövlət və icmal büdcələri üzrə layihələrin təqdimatı, page26 <http://www.maliyye.gov.az/scripts/pdfjs/web/viewer.html?file=/uploads/static-pages/files/5aed91215e85a.pdf>

⁶¹ Azərbaycan Respublikasının 2019-cu ilin dövlət və icmal büdcələri üzrə layihələrin təqdimatı, page 32. <http://www.maliyye.gov.az/scripts/pdfjs/web/viewer.html?file=/uploads/static-pages/files/5bd-816166dc9b.pdf>

⁶² Azərbaycan Respublikasının 2017-cu ilin dövlət və icmal büdcələri üzrə layihələrin təqdimatı, page 34 <http://www.maliyye.gov.az/scripts/pdfjs/web/viewer.html?file=/uploads/static-pages/files/5aed914a851f3.pdf>

⁶³ Azərbaycan Respublikasının 2019-cu ilin dövlət və icmal büdcələri üzrə layihələrin təqdimatı, page 32 <http://www.maliyye.gov.az/scripts/pdfjs/web/viewer.html?file=/uploads/static-pages/files/5bd-816166dc9b.pdf>

⁶⁴ ARAZ. (02 dekabr 2018). Təhsilə ayrılan büdcə vəsaitlərini mənimləyirlər: İnvestisiya xərcləri artırılsa da, şəffaflıq təmin edilmir. <http://araz.az/index.php/zhuend-m/5461-t-hsil-ayr-lan-bueddz-v-saitl-rini-m-nims-yirl-r-investisiya-kh-rdzl-ri-art-r-lsa-da-s-ffafl-g-t-min-edilmir>

operate as they had before. A lack of professionalism amongst doctors and the lack of a compulsory insurance system lead to low-quality medical care and a large amount of bribery. According to expert Samir Aliyev, “while it is claimed that in Azerbaijan hospitals provide free service, in reality one has to pay for services. Unofficial payments happen.”⁶⁵ The expert’s words are proved by various complaints. For example, in 2016, Leyla Asgarova, a resident of the town of Yevlakh, did not trust her local doctors to treat her gynecological problems, and instead came to the capital. Later she went to the Baku Women’s Consultation Center 9. According to Ms. Asgarova, an ultrasound examination in the state women’s consultation centers costs 10 AZN. Ali Safarov, a citizen who complained about the Republican Clinical Urological Hospital after the Academic Javadzade stated that an ultrasound examination cost 10-15 AZN.⁶⁶

Citizen Gorkhmaz Aliyev complained that his father was kicked out of the National Oncology Center for not paying money that was demanded for his chemotherapy sessions. He provided Radio Liberty with an audio recording of his dispute with the doctors there. In the recording, the doctors told him that “it applies to everyone” and stated that free treatment was impossible. Whenever such complaints are made to hotlines or chief doctors of hospitals, they deny these facts and state that services are completely free.

Despite the existence of provisions for pensions, illnesses, disability, and unemployment compensation in Azerbaijani legislation, problems in the social sphere continue to exist. Even the increased transparency of services, resulting from electronic government and the work of ASAN services, is not enough to eliminate these problems, because the main obstacle stems from finances. Low salaries, pensions, and payments for illnesses and disability simply do not cover basic living expenses. This both increases the inclination of doctors and teachers to solicit bribes, while simultaneously decreasing access for the low-income population to such vital education and healthcare services. As a result, patients regularly opt for treatment in foreign countries, especially Iran, where treatment is cheaper.

⁶⁵ Azadlıq Radiosu. (27 oktyabr 2016). Sağlamlıq bahasına büdcəni yüngülləşdirmək. <https://174471.info/b/https://www.azadliq.org/a/28077791.html>

⁶⁶ Azadlıq Radiosu. (04 noyabr 2016). Xəstənin pul kəsəsi tükənsə də, özü sağalmır. <https://174471.info/b/https://www.azadliq.org/a/xestexana-mualice-korrupsiya/28097005.html>

6.3 Procurement

In 2016, the State Procurement Agency was abolished in Azerbaijan, and its duties and functions were taken over by the State Service on Anti-Monopolization Policy and Protection of Consumers' Rights. Currently, the register information is located on the website of the this new state organization, providing access to information on tenders and winner companies⁶⁷.

Also, annual reports are placed on the website of the Service. According to the report from 2017, 7630 cases of procurement took place. In 2017, the total sum of procurement was 1,799.3 million AZN⁶⁸.

But while the majority of procurement operations are done electronically, the public can only access information on four specific parameters of the contract (name of the purchasing company, subject of procurement, sum of the procurement, and the name of the winner company) in the open database.

According to information from 2017, the new system enables citizens to search for and identify the bid winners and access a unified register of procurement contracts. However, these commitments have not yet been implemented and this data remains inaccessible⁶⁹.

According to the 2015 report from Transparency Azerbaijan, within the framework of the 2012-2015 National Anti-Corruption Action Plan, the Azerbaijani government has already implemented 45% of its obligations related to the improvement of state procurement procedures and the increasing of transparency.⁷⁰ Even based on limited register data, a number of investigations led to the exposing of a large number of corruption cases in the sphere of procurement.

For example, one of the investigations revealed that Inpeks. N Ltd. conducted

⁶⁷ Azərbaycan Respublikasının İqtisadi İnkişaf Nazirliyi yanında Antiinhisar Dövlət Xidməti. Müqavilələrin reyestri. <http://tender.gov.az/new/?inc=reestr>

⁶⁸ Azərbaycan Respublikasının İqtisadi İnkişaf Nazirliyi yanında Antiinhisar Dövlət Xidməti. 2017-ci il ərzində dövlət müəssisə və təşkilatları tərəfindən dövlət vəsaitləri hesabına malların (işlərin və xidmətlərin) müsabiqə əsasında satın alınmasına dair hesabat. <http://tender.gov.az/new/?inc=report&rep=2017>

⁶⁹ Azadlıq Rədiosu. (20 iyun 2017). Hökumət elektron satınalmalara hazırlaşır. <https://174471.info/b/https://www.azadliq.org/a/28569128.html>

⁷⁰ Şəffaflıq Azərbaycan. (2014). DÖVLƏT SATINALMALARINDA ŞƏFFAFLIQ MEXANIZMLƏRI. Page 2. <http://transparency.az/alac/files/Satinalmalar%20Policy%20Paper.pdf>

procurement contracts worth 26,619,665 AZN within just 6 months. The investigation discovered that there actually is no such company located the legal address given in the documentation.. A number of state bodies providing procurement services were contacted, but it was not possible to get information about this company.⁷¹

In 2015 a group of businessmen sent a complaint letter from the Procurement Office of the Ministry of Defense to the President. The Procurement Office of the Ministry was accused of corruption; according to the businessmen, food provision contracts for military units was granted to the companies they know as a procurement service, without having launched an open tender. Thus, these spheres are clearly monopolized.⁷²

The currently jailed journalist Afgan Mukhtarli wrote a number of articles about procurement for the Ministry of Defense. According to his investigations, the Ministry of Defense signs procurement contracts with owners of the companies, which used to provide procurement services to the Internal Troops. The present Minister of Defense, Zakir Hasanov, used to be the commander of the Internal Troops.⁷³

Another article is about procurement in Nakhchivan. Despite millions of AZN being invested from the state budget, there have only been a few competitions for services provided in the region. Also part of the procurement contracts was signed with the Gamigaya Holding Group of Companies owned by Rza Talibov, the son of Vasif Talibov, the chairman of the Supreme Assembly of the Nakhchivan Autonomous Republic and head of the region.⁷⁴

Two other companies accused of violating the law are Avromed and Retro. According to the Azerbaijan Laundromat investigation of OCCRP, Avromed company controls 25% of the pharmaceutical market in Azerbaijan and won a tender for 115 million AZN in 2016-2017.⁷⁵ Former Minister of Taxes, Fazil Mammadov, and the rector of

71 Xalq xəbər. (27 dekabr 2017). Milyon manatlıq satınalmalar həyata keçirən qapalı şirkətlər-ARAŞDIRMA. <http://xalqxeber.az/sosial/19338-milyon-manatliq-satinalmalar-heyata-kechiren-qapali-shirketler-arashdrma.html>

72 Gün Press. (15 noyabr 2015). Müdafiə Nazirliyinin Satınalmalar İdarəsindən Prezidentə şikayət. <http://gunpress.az/aktual/1087-mudafie-nazirliyinin-satinalmalar-daresinden-prezidente-shikayet.html>

73 Azadlıq Radiosu. (13 iyun 2016). Gizli satınalma planı- [Araşdırma]. <https://174471.info/b/https://www.azadliq.org/a/gizli-satinalma-dovlet-qohum/27795262.html>

74 Azadlıq Radiosu. (11 avqust 2017). Vasif Talibovun oğlunun şirkəti büdcə sifarişlərini müsabiqəsiz qazanır n<https://174471.info/b/https://www.azadliq.org/a/vasif-talibov-tender-naxcivan/28671194.html>

75 Azadlıq Rdiosu. (21 sentyabr 2017). 'Avromed' şirkətinə 'çirkli pul fondundan' 130 milyon dollar köçürülüb. <https://174471.info/b/https://www.azadliq.org/a/azerbaycan-avromed-dokta-derman-korupsiya/28749392.html>

the National Aviation Academy and Mehriban Aliyeva's father, Arif Pashayev, own the Retro company, which has organized a number of events organized by Heydar Aliyev Foundation and financed by the Ministry of Culture and Tourism of Azerbaijan.⁷⁶

The largest international scandal of recent years is related to Canada's Bombardier company and Azerbaijan Railways. Bombardier, the winner of the 2013 tender for the provision of the Azerbaijani railways, was accused of paying bribes to Azerbaijani officials. The procurement contract was signed in connection with the purchase of alarm equipment. Bombardier conducted the procurement of the equipment through a nonexistent company, posing as a subsidiary of the Britain Multiserv Overseas company. As a result, Bombardier paid bribes from the Azerbaijani officials and sold the country equipment worth 340 million USD. The Swedish Government launched a criminal investigation in connection with this corruption case in 2017.⁷⁷

After the Accounting Chamber held a 2016 audit of 3459 procurement instances, worth 1.421 billion AZN in 2016, numerous violations of the law were revealed⁷⁸: it was revealed that in 149 cases of procurement, the assumed cost was incorrectly calculated in 118 cases, it was not possible to participate in the tender; in 73 cases, announcements about tenders, nor were its results revealed in line with the law; in 11 cases, procurement contract was signed with a company that had not won the tender; and in 121 cases, the subject and cost of the signed contract was changed.⁷⁹

In its 2017 report, Transparency Azerbaijan concluded that the cause of these problems was primarily the absence of clear rules and procedures, along with the absence of a suitable controlling structure. In the legislation on procurement, the provision on conflict of interest does not envisage members of the tender commission and sides signing the procurement agreement.⁸⁰

⁷⁶ Azadlıq radiosı. (05 dekabr 2017). Paşayevlərin gəlirli Retro biznesi. <https://174471.info/b/https://www.azadliq.org/a/retro-fazil-memmedov-arif-pasayev/27871364.html>

⁷⁷ Azadlıq Radiosu. (20 mart 2017). Xaricdən rüşvət alıb, büdcə pulunu dağıdanlar kimlərdir? <https://174471.info/b/https://www.azadliq.org/a/28380324.html>

⁷⁸ Hesablama Palatasının 2016-cı ildə fəaliyyəti haqqında Hesabat. (2017) Page 42. <http://sai.gov.az/upload/files/HP%202016%20fealiyyet.pdf>

⁷⁹ Azadlıq Radiosu. (11 aprel 2017). İqtisadçı: 'Satınalmalardan korrupsiya iyi gəlir'. <https://www.azadliq.org/a/28423604.html>

⁸⁰ Transparency Azerbaijan. (2017) Transparent Public Procurement Rating. Implementation Assessment of the Azerbaijani Procurement Legislation. Page 3. <https://www.tpp-rating.org/public/uploads/data/9/AOIL/59a6656304838PPL-Implementation-Assessment-Azerbaijan.pdf>

Another problem is that the legislation allows the concealment of the financial situation, income, and property of businessmen, officials, and their close circle. Company owners, the secrecy of whose income and property is protected, participate in tender competitions under the name of various companies, thus preventing transparent and fair competition. Officials keep their financial situation and properties hidden and do not face any controls preventing the misappropriation of budget money after establishing companies in their own names and names of members of their close circle.

The law on State Procurement determines 6 options for products, services, and conduct of work. These are open tender, two stage tender, limited or closed tender, request for offer, rate demand, and direct procurement. Procurement service of 50,000 AZN or higher shall be held through an open tender. The procedure for direct procurement is not reflected in law.

6.2 Business

In recent years, Azerbaijan has been trying to solve the problems arising from a fall in global oil prices and the ensuing weakening of economy. One of the main issues at this stage is the improvement of the business environment and stimulation of economic growth. To this end, state institutions and the private sector have both tried to increase electronic services, simplification of procedure of provision of licenses, and development of corporate management. For example, according to the Presidential Decree signed in 2015, the number of activities requiring licenses have decreased from 59 to 37. Some licenses became free, the number of organizations providing licenses decreased from 23 to 3, and the confirmation period of licenses decreased from 15 days to 10.

In the recent Doing Business report of the World Bank, Azerbaijan is ranked 25th out of 190 in terms of ease of doing business, rising from 57th which was the best result in the last 10 years. The worst result was in 2012, when it dropped to 71st. In comparison with previous years, during the past 2 years, improvements have been observed in the launching of businesses and the receipt of construction licenses.⁸¹

Despite some improvements in the business sphere, in terms of internal control within state companies, national standards of corporate ethics, and the prevention and revealing of corruption, necessary improvements have not been made. According to information

⁸¹ Trading Economics. (2018). Ease of Doing Business in Azerbaijan. <https://tradingeconomics.com/azerbaijan/ease-of-doing-business>

from the business anti-corruption portal in 2016, corruption in Azerbaijan causes some risks for foreign investment. In the information it is noted that, despite the fact the law envisages punishment for passive and active bribery and abuse of power, the authorities do not apply the anti-corruption provisions sufficiently.⁸²

No surveys or research were conducted to assess the impact of business and the private sector. Lack of information related to state companies does not provide for the necessary transparency in this sphere. State companies lack corporate management standards; based on the examination of websites of 11 state companies, it is possible to conclude that only one of them has an ethics code, an anti-corruption policy, and procedures for accountability. Taking into consideration that employees of state companies are not considered civil servants, they are neither participants in anti-corruption measures nor under the jurisdiction of ethics codes applied to officials.

In September 2018, the Digital Tax Department was established within the Ministry of Taxes. This could lead to greater transparency in the operation of tax structures, leading to an improvement of the general business atmosphere. According to the Minister, “the Department will work on the application of electronic tax management, the development of technology, the application of online tax services, the exchange of operation information, and the management of information security systems, thereby ensuring the secrecy of information related to taxpayers”.⁸³

Also, according to the information disseminated by the Customs Committee this year, a number of officials were dismissed for bribery. MP Vahid Ahmadov spoke about it in the National Assembly and stated that all money coming from the customs is now being registered. But the executive secretary of REAL Party, economist Natig Jafarli, stated that there were deeper problems than small-time bribery in customs. Businessman and former MP Nazim Baydamirli stated in his interview with Radio Liberty that the essence of the customs system has not changed. According to him, officials engaging in business pay less taxes and pay through illegal means when importing products into the country. Thus, they create an unhealthy competition atmosphere by selling the same product for cheaper than other businesses.⁸⁴

⁸² Business Anti-Corruption Portal. (July 2016). Azerbaijan Corruption Report. <https://www.business-anti-corruption.com/country-profiles/azerbaijan/>

⁸³ ABC. (06 sentyabr 2018). Digital Tax Administration Department established at Taxes Ministry. <http://abc.az/en/news/16596>

⁸⁴ Azadlıq Radiosu. Millət vəkili: ‘Gömrükdə son 20 ildə azı 20 milyard manat mənimşənilib’. <https://www.azadliq.org/a/gomruk-rushvet/29589997.html>

RECOMMENDATIONS

- A) Along with being a branch of power in the state, the judiciary is also the last instance where citizens can defend their rights and achieve justice. Courts failing to do their job transparently, impartially, and without corruption causes citizens to lose trust in the court and, thus, not trying to defend their rights. Corruption in the courts can be noted as a direct factor influencing the increase of corruption and lawlessness in all other spheres. Taking this into consideration, the following is recommended to ensure independence and transparency in the work of courts, law-enforcement structures, and lawyers:
- Creation of legal and practical opportunities for the separation of judicial power from other branches of power and its independent operation;
 - Changes in the legislation to ensure free decision-making of all prosecutors working in the prosecution structures and to protect their independent operation;
 - Making property and income declarations of judges and prosecutors open to the public;
 - Part of the investigation cases being taken from the prosecutor's office and assigned to the police instead;
 - Increase of control by the State Examination Center (SEC) on internal statutes for civil service, including increase of control over internal changes and the execution of duties;
 - Court proceedings being open;
 - Ensuring of control of the justice system by civil society;
 - Simplification of the procedures related to membership in the Bar Association, to help increase membership numbers.

B) The following reforms in the social sphere are recommended to improve the general welfare of citizens and decrease poverty levels:

- Increase of pensions for old age and disability;
- Increased salaries for education and healthcare workers;
- Establishment of a compulsory insurance system;
- Establishment of a unified electronic scheduling system in state hospitals.

C) To ensure transparency and effectiveness in the procurement sphere it is necessary to change the legislation on officials revealing their wealth, income, and financial situation and the following is recommended:

- Procedures and rules related to all 6 ways of participation in procurement shall be openly demonstrated in the law and explained in the online system;
- Applying electronic procurement and encouraging online conduct of state procurement;
- Reflection of detailed information of companies registered for tender;
- Detailed explanation of the conditions and procedures for agreements involving direct procurement;
- Provisions in the legislation on conflict of interest shall also cover heads of state companies and heads of private companies;
- Establishment of an independent investigation group to handle complaints involving the procurement process;
- Creation of opportunities for operative review of requests and complaints regarding procurement, both for participants of tenders and other interested parties.

- D)** The following is recommended to sustain and develop positive changes mentioned in the recent report of the World Bank in connection with the business sphere:
- Encouraging the establishment of internal policies and ethics codes to fight corruption in private and state companies;
 - Taking necessary steps to ensure that employees of state companies adhere to relevant legislation and/or internal statutes;
 - Conduct of surveys to assess the impact of reforms on business;
 - Improvement of loan conditions to encourage small and medium-size businesses.
- E)** Institutional quality in state management and the creation of opportunities for public participation by civil society, in order to implement a control mechanism for the relevant spheres, in line with the aforementioned recommendations, is one of the main conditions.

